



March 20, 2009

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## ENGROSSED HOUSE BILL No. 1246

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DIGEST OF HB 1246 (Updated March 19, 2009 11:53 am - DI 110)

**Citations Affected:** IC 27-2.

**Synopsis:** Use of credit information by insurance companies. Removes a requirement that certain insurers recalculate an insurance score or obtain updated credit information every 36 months. Prohibits use of late medical payments as a negative factor in insurance underwriting or rating.

**Effective:** July 1, 2009.

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### Herrell, Lehman

(SENATE SPONSORS — PAUL, SIMPSON)

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January 12, 2009, read first time and referred to Committee on Insurance.  
February 19, 2009, amended, reported — Do Pass.  
February 23, 2009, read second time, ordered engrossed. Engrossed.  
February 24, 2009, read third time, passed. Yeas 97, nays 0.

#### SENATE ACTION

March 2, 2009, read first time and referred to Committee on Insurance and Financial Institutions.  
March 19, 2009, amended, reported favorably — Do Pass.

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March 20, 2009

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

## ENGROSSED HOUSE BILL No. 1246

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A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 27-2-21-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 16. **(a)** An insurer that uses credit information to underwrite or rate risks shall not do the following:

(1) Use an insurance score that is calculated using income, gender, address, ZIP code, ethnic group, religion, marital status, or nationality of the consumer as a factor.

(2) Deny, cancel, or decline to renew a personal insurance policy solely on the basis of credit information.

(3) Base an insured's renewal rate for a personal insurance policy solely on credit information.

(4) Take an adverse action against a consumer solely because the consumer does not have a credit card account.

(5) Consider an absence of credit information or an inability to calculate an insurance score in underwriting or rating a personal insurance policy, unless the insurer does one (1) of the following:

(A) Presents to the commissioner information that the absence

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or inability relates to the risk for the insurer and treats the consumer as approved by the commissioner.

(B) Treats the consumer as if the consumer had neutral credit information, as defined by the insurer.

(6) Take an adverse action against a consumer based on credit information unless the insurer obtains and uses:

(A) a credit report issued; or

(B) an insurance score calculated;

not more than ninety (90) days before the date the personal insurance policy is first written or the renewal is issued.

~~(7) Use credit information unless the insurer recalculates the insurance score or obtains an updated credit report at least every thirty-six (36) months. However, the following apply:~~

~~(A) At annual renewal, upon the request of an insured or the insured's agent, the insurer shall re-underwrite and re-rate the personal insurance policy based on a current credit report or insurance score unless one (1) of the following applies:~~

~~(i) The insurer's treatment of the consumer is otherwise approved by the commissioner.~~

~~(ii) The insured is in the most favorably priced tier of the insurer, within a group of affiliated insurers.~~

~~(iii) Credit information was not used for underwriting or rating the insured when the personal insurance policy was initially written.~~

~~(iv) The insurer reevaluates the insured at least every thirty-six (36) months after a personal insurance policy is issued based on underwriting or rating factors other than credit information.~~

This clause does not require an insurer to recalculate an insurance score or obtain an updated credit report of a consumer more frequently than one (1) time in a twelve (12) month period.

~~(B) An insurer may obtain current credit information upon the renewal of a personal insurance policy when renewal occurs more frequently than every thirty-six (36) months if consistent with the insurer's underwriting guidelines.~~

~~(8) (7) Use the following as a negative factor in an insurance scoring methodology or in reviewing credit information for the purpose of underwriting or rating a personal insurance policy:~~

(A) A credit inquiry:

(i) not initiated by the consumer; or

(ii) requested by the consumer for the consumer's own credit

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- 1 information.
- 2 (B) A credit inquiry relating to insurance coverage.
- 3 (C) A **late payment or a** collection account with a medical
- 4 industry code on the consumer's credit report.
- 5 (D) Multiple lender inquiries:
- 6 (i) coded by the consumer reporting agency on the
- 7 consumer's credit report as being from the home mortgage
- 8 industry; and
- 9 (ii) made within thirty (30) days of one another.
- 10 (E) Multiple lender inquiries:
- 11 (i) coded by the consumer reporting agency on the
- 12 consumer's credit report as being from the automobile
- 13 lending industry; and
- 14 (ii) made within thirty (30) days of one another.
- 15 **(b) An insurer that uses credit information to underwrite or rate**
- 16 **risks shall, at annual renewal upon the request of an insured or an**
- 17 **insured's agent, re-underwrite and re-rate the insured's personal**
- 18 **insurance policy based on a current credit report or insurance**
- 19 **score unless one (1) of the following applies:**
- 20 (1) The insurer's treatment of the consumer is otherwise
- 21 approved by the commissioner.
- 22 (2) The insured is in the most favorably priced tier of the
- 23 insurer, within a group of affiliated insurers.
- 24 (3) Credit information was not used for underwriting or
- 25 rating the insured when the personal insurance policy was
- 26 initially written.
- 27 (4) The insurer reevaluates the insured at least every
- 28 thirty-six (36) months after a personal insurance policy is
- 29 issued based on underwriting or rating factors other than
- 30 credit information.
- 31 (5) The insurer has re-underwritten and re-rated the insured's
- 32 personal insurance policy based on a credit report obtained or
- 33 an insurance score recalculated less than twelve (12) months
- 34 before the date of the request by the insured or the insured's
- 35 agent.
- 36 **(c) An insurer that uses credit information to underwrite or rate**
- 37 **risks may obtain current credit information upon the renewal of a**
- 38 **personal insurance policy when renewal occurs more frequently**
- 39 **than every thirty-six (36) months if consistent with the insurer's**
- 40 **underwriting guidelines.**

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, to which was referred House Bill 1246, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to HB 1246 as introduced.)

FRY, Chair

Committee Vote: yeas 7, nays 0.

## COMMITTEE REPORT

Madam President: The Senate Committee on Insurance and Financial Institutions, to which was referred House Bill No. 1246, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 3, line 3, after "(C) A" insert "**late payment or a**".

Page 3, line 3, reset in roman "collection account".

Page 3, line 3, after "collection account" delete "late payment".

Page 3, between lines 30 and 31, begin a new line block indented and insert:

**"(5) The insurer has re-underwritten and re-rated the insured's personal insurance policy based on a credit report obtained or an insurance score recalculated less than twelve (12) months before the date of the request by the insured or the insured's agent."**

Page 3, delete lines 31 through 33.

and when so amended that said bill do pass.

(Reference is to HB 1246 as printed February 20, 2009.)

PAUL, Chairperson

Committee Vote: Yeas 8, Nays 0.

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